

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 06-14-04.

The IRO reviewed psychotherapy rendered on 09-18-03 and 10-23-03 that was denied based upon "V".

The IRO concluded that the service on 09-18-03 **was** medically necessary and the service on 10-23-03 **was not** medically necessary. The respondent raised no other reasons for denying reimbursement for the services listed above.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 07-15-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for CPT code 90806 for dates of service 09-02-03, 09-11-03 and 10-21-03. No proof of submission of the services was submitted by the requestor. No reimbursement is recommended.

CPT code 90801 date of service 06-30-03 denied with denial reason "E". No TWCC-21 on file pertaining to entitlement issues for service billed. Per the 96 MFG GI GR (I)(D) reimbursement in the amount of \$540.00 (180 units X \$3.00 per unit) is recommended.

CPT code 90830 date of service 06-30-03 denied with denial reason "E". No TWCC-21 on file pertaining to entitlement issues for service billed. Per 96 MFG GI GR (I)(D) reimbursement in the amount of \$250.00 (120 units or 2 hours @ \$125.00 per hour) is recommended.

CPT code 97750 date of service 07-02-03 denied with denial reason "E". No TWCC-21 on file pertaining to entitlement issues for service billed. Per 96 MFG GI GR (I)(D) reimbursement in the amount of \$516.00 (12 units @ \$43.00 per unit) is recommended.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 06-30-03 through 10-21-03 in this dispute.

This Findings and Decision and Order are hereby issued this 7th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 17, 2004

RE:

MDR Tracking #: M5-04-3528-01

IRO Certificate #: 5242

_____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to _____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

_____ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Psychiatric reviewer (who is board certified in psychiatry) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Letter requesting a medical dispute resolution dated 6/9/04
- Table of disputed services
- Letter to _____
- Findings from a TWCC Hearing Division decision and order
- Notes from _____ individual therapy from 9/2/03-10/23/03
- Medical consultation from _____ dated 5/14/03
- DOT job assessment dated 7/2/03

- Individual diagnostic survey, behavioral assessment packet and report dated 6/30/03
- Notes from _____ from _____

Submitted by Respondent:

- Notes from _____, _____ notes spanning the periods from 1/02-11/03
- TWCC work status reports
- MRI of the lumbar spine dated 12/5/02
- Letter from TIG of a denial for an MRI dated 11/15/02
- NCV study dated 11/14/02
- Medical records from _____ from the period of 11/1/02-6/6/03
- Peer review dated 10/31/02 by _____
- Letter from _____ work hardening program
- Letter from _____ stating he has transitioned patients over to other doctors at the _____
- _____, _____ notes dated from 7/3/01-11/29/01
- X-rays of the right hip dated 8/15/01
- X-rays of the lumbar spine dated 7/24/01
- Notes from _____ from 8/30/01-10/18/01
- Evaluation by _____ dated 8/9/01
- X-rays of the lumbar spine dated 7/9/01
- TWCC Notice of Refused or Disputed Claim dated 12/24/03
- Benefit Dispute Agreement
- Report of a medical evaluation dated 9/9/03
- Designated doctor examination dated 2/12/03
- Evaluation by _____ dated 12/18/02
- Notes from _____ including therapy notes from 9/2/03-10/23/03
- DOT job assessment dated 7/2/03
- Letter of approval for 4 sessions of medication management and 8 sessions of individual therapy over the period of 8/21/03-9/21/03.
- Letter of approval for 4 medication management sessions dated 7/25/03
- Non-authorization for individual therapy sessions dated 7/25/03
- Individual diagnostic survey dated 6/30/03
- _____ behavioral assessment packet report dated 5/7/03
- Medical consultation with a _____ dated 5/14/03
- Non-authorization letter for psychological testing dated 6/13/03
- Non-authorization of the psychological testing on appeal dated 6/29/03
- Extensive notes from a _____ work hardening program
- Denial letter for six weeks of work hardening program dated 3/19/03
- Electrodiagnostic studies dated 1/29/03

Clinical History

The claimant reportedly was injured on ____ during the course of his duties while lifting a piece of equipment. He subsequently sought out care from _____, who treated him primarily with physical therapy and pain medications. Subsequently, he saw _____ of the

_____ and underwent further chiropractic and therapeutic care. He was referred to an orthopedic surgeon as well as a pain management doctor for epidural steroid injections. Of note, from _____, the orthopedic surgeon, during his treatment of him he noticed that the claimant was having depression on 4/2/03 and gave him some samples of Zoloft. In a follow-up note on 5/7/03, he noted that the depression was better. Also, in the notes of _____ in 2003, he indicates the claimant has a chronic pain condition, and he refers the claimant for pain management. The claimant additionally participated in a work hardening program. Subsequently he participated in individual therapy in September and October of 2003. The focus of that therapy appears to be supportive as well as cognitive behavioral nature. On the disputed dates, relaxation training was reinforced on 9/18/03 and then, on 9/23/03 the claimant was given some references for resources in the community for vocational rehabilitation. The initial reason for referral for the individual therapy was the individual's diagnostic survey on 6/30/03 that concluded that the claimant had a pain disorder, depression, not otherwise specified, and anxiety, not otherwise specified.

Requested Service(s)

Individual psychotherapy for the dates of 9/18/03, 10/23/03.

Decision

I believe that the 9/18/03 date should be covered and was medically necessary. The 10/23/03 date was not medically necessary.

Rationale/Basis for Decision

Based on diagnostic evaluation and collateral history from other providers, the claimant appears to have had depression, anxiety and a pain disorder. Individual therapy to treat these issues was appropriate. The session on 9/18/03 was relevant to the claimant's issues. The claimant was seen on 10/21/03 for individual therapy. It was noted that he is improving significantly, that he had been released to work, but he didn't have any depression or anxiety that seemed unmanageable, yet he was seen back two days later for an additional session which was during the same week. That frequency of therapy, twice a week, was not medically necessary. He had been improving prior to that with once a week therapy to the point that he was returned to work during that time period.